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Letter dated 25 February 2001 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General

On instructions from my Government, I have the honour to transmit to you herewith a letter dated 25 February 2001 from Mr. Mohammed Said Al-Sahaf, Minister for Foreign Affairs of the Republic of Iraq, responding to your letter of 21 February 2001 addressed to him (S/2001/160, annex). It concerns the position that must be taken under the Charter of the United Nations with regard to the United States and British aggression against Baghdad and its outskirts on 16 February 2001 and with regard to the no-flight zones.

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Mohammed A. **Al-Douri**
Ambassador
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Annex to the letter dated 25 February 2001 from the Permanent Representative of Iraq to the United Nations addressed to the Secretary-General

I have received your letter of 21 February 2001 (S/2001/160, annex) replying to the letter of 17 February 2001 (S/2001/146, annex) in which I asked you to adopt the position that is required by the Charter of the United Nations with respect to the United States and British aggression against Baghdad and its outskirts on 16 February 2001, when three people were killed, a large number were wounded and many installations were destroyed. Allow me to respond to the positions you have taken and to the interpretations given in your letter, because I find it essential to set before you a number of facts.

1. Your letter does not adopt an unequivocal position with respect to the aerial exclusion zones, and you are content to say that "the 'no-fly zones' were declared over parts of the territory of Iraq by certain members of the Security Council, claiming authority under resolutions of the Council". You go on to say that "it is for the Security Council to interpret its own resolutions" and that "only the Council itself is competent to determine whether or not its resolutions are of such a nature and effect as to provide a lawful basis for the 'no-fly zones'". With regard to this logic, some observations are in order.

(a) It would be acceptable to say that "it is for the Council to interpret its own resolutions" if the Council had adopted a resolution imposing no-flight zones on Iraq or if it had adopted a statement or taken a position interpreting or clarifying its previous resolutions as providing a legal basis for the imposition of the no-flight zones. In view of the fact that the Council did nothing of the kind, its existing resolutions do not in any way give individual members of the Council the right to interpret its resolutions in accordance with the dictates of their own political, military and economic interests. If the international community was to allow the United States and British interpretation to stand, it would be conferring on the members of the Security Council new powers for which no provision is made in the Charter. At the same time, the international community is calling for limits on the powers of the five permanent members and for the revocation of some of them (such as the veto), given that such powers are incompatible with the principle of democracy in international relations and with the spirit of the times.

(b) There is international consensus that the two no-flight zones imposed on Iraq constitute a unilateral and unlawful measure for which there is no authorization from the Security Council. There are three permanent members of the Council, to be specific the Russian Federation, China and France, that declare at every opportunity and at the highest political and legislative levels that the no-flight zones lack any basis in international law or in the resolutions of the Security Council. They have demanded the immediate elimination of the zones, and they have condemned the United States and British military assaults that are perpetrated while using them as a pretext. This means that the majority of the permanent members of the Security Council oppose the interpretation of the minority (one or two permanent members) of the nature and scope of the Council's resolutions.

(c) Since the so-called no-flight zones were unilaterally imposed, the United Nations, as represented by the former Secretary-General and by its senior officials, has distanced itself from this unilateral action involving the use of force against an

independent State without the authorization of the Security Council. Your predecessor, Mr. Boutros Boutros-Ghali, has stated on several occasions, and most recently in his 1999 book *Unvanquished: A U.S.-U.N. Saga*, that the no-flight zones are a unilateral measure, that they have no basis in international law and that no authorization was given for them or for the use of coercion to enforce them by the Security Council. Security Council resolution 688 (1991), under which the United States and the United Kingdom claim authorization, was not adopted under Chapter VII of the Charter, concerning the authorization of coercive enforcement measures. The no-flight zones have never received the support of the Council. On 7 January 1993, Mr. Joe Sills, then United Nations spokesman, said that the no-flight zone in southern Iraq was not based on any Security Council resolution.

(d) The maintenance of the so-called no-flight zones in northern and southern Iraq represents a serious danger to regional and international peace and security. They involve the use of armed force against an independent State without authorization from the Security Council, and they have caused the deaths of hundreds of Iraqi men and women and have left thousands of wounded. They have led to the destruction of Iraqi residential neighbourhoods, infrastructure, food depots and many installations. The many reports of the United Nations agencies operating in Iraq have established this fact, and United States and British warplanes carry out raids against Iraq, destroy its installations and murder and terrorize its people on a daily basis.

What is required of you under the Charter is that you should alert the Security Council and the international community to the dangers posed by this bellicose military action to regional and international peace and security, especially since most of the world's countries have condemned the maintenance of the two no-flight zones in Iraq and the daily aggression against the country in these zones. I send you letters, at a rate of one a week, in which I set forth precise details of this ongoing aggression. The position of the United States and the United Kingdom on this issue is one that they maintain in total isolation, and indeed many voices have been raised in the United Kingdom and the United States themselves demanding a halt to this unjustified aggression. I refer in this connection, by way of example, to a report of the Defence Committee in the British House of Commons (Thirteenth Report of Session 1999-2000, House of Commons paper 453), that casts doubt on the legal and moral principles that are alleged by the British Government to underlie the imposition of the no-flight zones. The Committee states that it is of the view that the operations in the no-flight zones in which British military personnel take part cannot be justified on any moral or humanitarian grounds. It states that the reasons for the intervention of the United Kingdom in Iraq are to secure the flow of oil, safeguard oil prices and sell arms to certain States in the region. The Committee further states that the imposition of the no-flight zones was not based on any of the resolutions of the Security Council and that resolution 688 (1991), which the British Ministry of Defence claims as justification for their maintenance, does not imply any authorization to use force.

2. Your failure to express an unequivocal view on the no-flight zones, which the world has condemned, does not preclude the expression of an unequivocal view on the aggression of 16 February 2001. This aggression targeted Baghdad and its outskirts, and it caused large-scale material and human losses and aroused the anger of the entire world.

3. In my letter to you, I referred to another reason that should prompt your condemnation and a demand for the removal of the no-flight zones. It was that a number of United States and British aircraft commit their aggression against Iraq by way of the demilitarized zone between Iraq and Kuwait. They thus violate the demilitarized zone monitored by the United Nations Iraq-Kuwait Observation Mission (UNIKOM). Your reply on this point was that UNIKOM monitors all violations committed in the air, on land and at sea on a regular basis and records them in its six-monthly reports but that the mission is unable to identify the aircraft that violate the demilitarized zone. You state that the United Nations has intervened with the governments of the United States and the United Kingdom and has urged them to respect the demilitarized zone. Allow me to make some observations on this statement of yours.

You equate violations committed on land and at sea, on the one hand, with aerial violations, on the other. You are nevertheless aware that in all of its six-monthly reports in recent years UNIKOM has stated that its area of operations is quiet and that violations committed at sea or on land by Iraq and Kuwait consist of little more than, say, a small fishing boat crossing the maritime boundary and then turning back when alerted to the fact, or the observation of movements by civilian vehicles, or shots fired in the air. The aerial violations, on the other hand, consist of an aerial assault by 10 to 20 aircraft a day for the purpose of violating Iraq's sovereignty and committing military aggression against it. The victims of this, as I have stated above, have been more than 300 dead and some thousands of wounded. This requires that the United Nations should take some measure, since it has termed this "a violation", that it should view the party that committed the violation as bearing full international responsibility for it and for its consequences and that it should halt the violation immediately and not await the issuance of a six-monthly report in which there are one or two sentences to the effect that there were aerial violations by aircraft that UNIKOM was unable to identify. As you know, UNIKOM's inability to identify the aircraft can quickly be remedied and should have been addressed from the outset. We ask you for such a remedy with all possible dispatch. You speak of the United Nations intervening with the governments of the United States and the United Kingdom. We welcome this, but we are hearing it for the first time. It should not have remained secret until your letter to me. We hope that the intervention of the United Nations will be unequivocal and decisive and will not take the form of "urging" — a term that is not commensurate with the nature and gravity of the action in question and an activity that will not deter the brutal United States and British aggressors — but that of frank and explicit condemnation in accordance with the Charter of the United Nations and international law.

(*Signed*) Mohammed Said **Al-Sahaf**
Minister for Foreign Affairs of the Republic of Iraq